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Same-Sex Marriage Decision a Win for Employers?

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Texas Lawyer

Jackie Ford, a partner in the Vorys Houston office and a member of the labor and employment group, authored an article titled "Same-Sex Marriage Decision a Win for Employers?" for *Texas Lawyer*. According to Ford, the U.S. Supreme Court's decision to legalize same-sex marriages in all 50 states will reduce the administrative complexities employers face regarding issues from tax withholding to benefits administration.

The article states:

"Two years ago, in U.S. v. Windsor, the Supreme Court ruled that the federal government must recognize all valid marriages, including those of same-sex couples. As a result, federal benefits tied to marriage could not be denied to same-sex couples. But the remaining gap between federal and state recognition of such marriages forced some employers to treat some married employees differently than other married employees.

In order to establish a proper level of withholding from a worker's first paycheck, for example, the employer needs to know how many deductions to take—a number related, in part, to whether the employee has a spouse or other dependents. Differences between state and federal definitions of "married" created the cumbersome possibility that a worker might be married for purposes of federal withholding but not married for purposes of state withholding.

Employers' costs increased still further when they offered health benefits to the 'spouses' of employees—and then had to determine whether that coverage triggered additional state tax obligations for the employee. Although Texas does not impose a state tax on workers' wages, Texas companies operating in multiple states were nevertheless faced with this issue. While benefits provided to spouses do not generally trigger additional taxes for employees (and can be paid with pre-tax dollars), in most 'non-marriage' states benefits provided to same-sex spouses were taxable for state tax purposes. In some cases,

employers addressed the inequity by grossing up the pay of the affected employees, which in turn increased costs for the employer. Companies were also forced to add staff to track rapidly changing marriage laws and their tax and benefits implications. This Rubik's cube of ever-changing rules imposed significant additional cost on employers; according to an amicus brief filed by employers in Obergefell, 'inconsistent marriage laws' were costing private sector employers over a billion dollars a year."

To read the entire article, visit the [Texas Lawyer website](#). (Subscription may be required).